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**TERMINAL DISCLAIMER TO OBIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

POLYPROBE 3.0-017 CIP CONT  
CONT

In re Application of: Thor Nilsen

Application No.: 09/911,039

Filed: July 23, 2001

For: OPTIMALLY LABELED OLIGONUCLEOTIDES

The owner\*, Polyprobe, Inc., of 100  
percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the  
statutory term of any patent granted on the instant application, which would extend beyond the expiration date of  
the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal  
disclaimer,  
of Prior Patent No. 6,072,043

The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and  
during such period that it and the prior patent are commonly owned. This agreement runs with any patent  
granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on  
the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C.  
154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it  
later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent  
jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims  
canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its  
full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency,  
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I hereby declare that all statements made herein of my own knowledge are true and that all statements  
made on information and belief are believed to be true; and further that these statements were made with the  
knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both,  
under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize  
the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Shawn P. Foley  
SignatureSept. 10, 2003  
Date

Shawn P. Foley

Typed or printed name

- ☒ The Commissioner is hereby authorized to charge the terminal disclaimer fee under 37 CFR 1.20(d) to  
Deposit Account No. 12-1095

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

I hereby certify that this correspondence is being transmitted by facsimile to  
703 872-9306, on the date shown below.

Dated: September 10, 2003

Signature:

Shawn P. Foley  
(Shawn P. Foley)